

**63C-4-104. Plan for R.S. 2477 rights -- Contents.**

- (1) As used in this section, "plan" means a guiding document that:
  - (a) is developed jointly by the Utah Association of Counties and the state;
  - (b) is approved by the Constitutional Defense Council; and
  - (c) presents the broad framework of a proposed working relationship between the state and participating counties collectively for the purpose of asserting, defending, or litigating state and local government rights under R.S. 2477.
- (2) The Constitutional Defense Council may approve a plan if the plan:
  - (a) provides for a good faith, cooperative effort between the state and each participating county;
  - (b) allows a county to formally agree to participate in the plan by adopting a resolution;
  - (c) provides that the state and a participating county are equal partners in determining litigation strategy and the expenditure of resources with respect to that county's rights under R.S. 2477; and
  - (d) provides a process for resolving any disagreement between the state and a participating county about litigation strategy or resource expenditure that includes the following requirements:
    - (i) the governor or the governor's designee and a representative of the Utah Association of Counties shall first attempt to resolve the disagreement;
    - (ii) if the county and the state continue to disagree, the county, the governor, and the Utah Association of Counties shall present their recommendations to the Constitutional Defense Council for a final decision about the strategy or expenditure in question; and
    - (iii) the county may pursue a strategy or make an expenditure contrary to the final decision of the Constitutional Defense Council only if the county does not claim resources provided to fund the plan.
- (3) The Constitutional Defense Council shall ensure that the plan contains:
  - (a) provisions identifying which expenditure types require approval of the plan committee and which expenditure types may be made without plan committee approval;
  - (b) provisions requiring that financial statements be provided to members of the plan committee and members of the Constitutional Defense Council, and the frequency with which those financial statements must be provided; and
  - (c) provisions identifying those decisions or types of decisions that may be made by the plan committee and those decisions or types of decisions that must be referred to the Constitutional Defense Council for decision.
- (4) The Constitutional Defense Council shall:
  - (a) review expenditures, at least quarterly, made to further a plan approved under this section;
  - (b) approve an update to a plan under this section at least annually, or more often, if necessary; and
  - (c) jointly, with the Public Lands Policy Coordinating Office, present a plan approved under this section, with any updates, to:
    - (i) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee by July 1 of each calendar year, after providing the plan to the committee at least seven days before the presentation; and
    - (ii) the president of the Senate and the speaker of the House of Representatives, which may be by mail.